REMARKS

Claims 1-8 and 10-13 are pending in this application. By this Amendment, claim 13 is amended. The amendments introduce no new matter as they are made to correct an informality. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments satisfy a requirement of form asserted in the previous Office Action. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the Final Rejection. Entry of the amendments is thus respectfully requested.

The Office Action, in paragraph 3, maintains that the October 27, 2003 Information Disclosure Statement ("IDS") allegedly fails to comply with 37 C.F.R. §1.97 and 1.98 and MPEP §609. Specifically, the Office Action maintains that the reference identified as reference number 1 was not submitted with a translated abstract. However, Applicant respectfully submits, as indicated in the April 11, 2007 Amendment, that Applicant is not required to provide an English-language translation of Japanese patent JP-B2-A-27589 because Applicant has provided a concise explanation of the relevance of this reference in at least paragraphs [0003] and [0004] of the instant specification. Such explanation of relevance is in compliance with 37 C.F.R. §1.98. Under this section, a copy of the translation should be provided only if it is "readably available" to Applicant. Regardless of the fact that the Office Action's assertion is clearly in error, Applicant attaches an English-language abstract from corresponding application JP-A-64-044979 in the Appendix, which also explains the relevance of JP-B2-A-27589 in accordance with Applicant's duty of disclosure.

The Office Action, in paragraph 4, rejects claims 1-8 and 10-13 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Office Action asserts that independent claims 1, 11, 12 and 13 recite features that provide no clarity as to when, or if, steps are being

performed, and that these claims allegedly recite recursive conditions. In this regard, however, the Office Action fails to give the claim language of these claims the broadest reasonable construction in light of the instant specification. The claim language, as written, is sufficiently clear and would satisfactorily enable one of ordinary skill in the art to make and use this invention. As such, Applicant has no obligation to explicitly state when, or in what sequence, steps are being performed. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

The Office Action, in paragraph 4, rejects claim 13 under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Office Action asserts that specific features recited in claim 13 lack antecedent basis. Claim 13 is amended to obviate this rejection. Withdrawal of the rejection is respectfully requested.

The Office Action, in paragraph 5, rejects claims 1-5, 7-8 and 10-13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,535,620 to Nichols in view of "The Design of History Mechanisms and their use in Collaborative Educational Simulations," by Katherine Plaisant et al. (hereinafter "Plaisant").

The Office Action, in paragraph 5, concedes that Nichols does not teach a storage section, and an event data storage section for storing into the storage section as event data, a time when a setting operation is carried out, a value of the data at that time, and information about the data, only when the setting operation of the data through the output data setting section is detected, as positively recited in claims 1 and 12. Claims 10 and 13 recite similar features. To cure this deficiency, the Office Action asserts that Plaisant teaches these features. The Office Action summarily concludes that it would have been obvious to one of ordinary skill in the art to combine the references in the manner suggested by the Office Action to render obvious at least the above-quoted feature recited in claims 1 and 12. The analysis of the Office Action fails for at least the following reasons.

Plaisant does not teach, nor can it reasonably be considered to have suggested, an event data storage section for storing into the storage section as event data information about the data, only when the setting operation of the data through the output data setting section is detected, as recited in claims 1 and 12. The Office Action, in paragraph 5.1, broadly asserts that any simulation system that teaches a time stamp for recorded data reads on the current claims. The Office Action further asserts that Plaisant teaches features that are alleged to correspond to features of a time field, value of data and information about the data, as recited in the pending claims. Plaisant, however, does not disclose, and the Office Action does not specifically cite to any portion of Plaisant that can reasonably be considered to correspond to, the feature of information about the data, only when the data setting operation of the data through the output data setting section is detected.

Further, the Office Action vaguely and improperly categorizes specifically recited features in claims 1 and 12 into what the Office Action generically perceives to be a simulation system. For example, the Office Action asserts "the Examiner has interpreted Applicant's claim language to teach a data structure used in a simulation, including a time stamp, to record data for playback, therefore any simulation system that teaches a time stamp for recorded data reads on the current claim language." Such overgeneralization, however, fails to meet the Patent Office's burden of establishing that each and every feature recited in the pending claims is taught or would have been suggested by some combination of the applied references. At best, Plaisant teaches a simulation system for learning, which can be based on physical systems (see Abstract). As such, it is unreasonable to assert that Nichols and Plaisant, even in combination, would have rendered obvious at least the above-quoted features recited in claims 1 and 12.

Nichols and Plaisant are non-analogous art. The Office Action, on page 8, alleges that Nichols and Plaisant are from the same problem area of simulating physical systems. With

reference to MPEP §2141.01(a), the standard for finding a reference to be analogous prior art is that "[i]n order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992). The above-cited MPEP section goes on to quote other Federal Circuit precedent that finds that a reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her problem.

Nichols teaches a system for testing an engine designed to be run under an engine management system and the engine control module (Abstract). Plaisant, on the other hand, teaches a learnings history mechanism in the context of an application framework for constructing simulation data based on learning envoironments such as SimPLE (pg. 7). The Office Action asserts that simple modules deal with process control simulation involving sequences of operations in continuous deterministic physical processes. Plaisant, however, is directed toward teaching through the development of a simulating learning strategy. It is unreasonable to conclude that such simulated learning mechanisms, however, are in the Applicant's field of endeavor or reasonably not pertinent to the problem solved by Applicant's invention or any suggested by Nichols.

Additionally, Nichols and Plaisant are not combinable in the manner suggested by the Office Action. The Office Action asserts that the suggestion for combining Nichols and Plaisant would have been to provide for a method to record and playback simulation histories as allegedly disclosed by Plaisant to further secure the advantage of being able to annotate different events during the playback, which provides the benefit of being able to experiment with different possible outcomes of the simulation without having to rerun the entire

simulation. The Office Action further cites the alleged advantage of being able to collaborate with other designers or engineers during the test and evaluation stage of system development. It is unclear, however, why one of ordinary skill in the art when faced with the problems relating to engine management systems, as disclosed by Nichols, or when faced with the problem of simulated learning environments, as disclosed by Plaisant, would have turned to the other reference to solve that problem. The Office Action's alleged motivation in this regard does not meet the articulated standard required to show proper teaching, motivation or suggestion to combine the applied prior art references in the manner suggested by the Office Action.

Specifically, the Federal Circuit recently reaffirmed its prior holdings asserting that "rejections on obviousness grounds cannot be sustained by mere conclusory statement; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). See also the Supreme Court's reasoning in *KSR v. Teleflex*, requiring explicit "articulated reasoning with a rational underpinning" to support a legal conclusion of obviousness. *KSR Int'l Co. v. Teleflex, Inc.*, No. 04-1350, slip op. at 14 (U.S. April 30, 2007), *citing In re Khan 441 F.3d 997, 998 (Fed. Cir. 2006)*. This standard is not met here as no articulated reasoning with some rational underpinning is provided in order to meet the standard of obviousness required by the judicial precedent for combining these references in the manner suggested. In particular, the Office Action's asserted motivation of more efficient collaboration and efficiency of recording playback events does not rationally relate to the problems conceived by either of the applied references or the subject matter of the pending claims. For example, there is no indication in Nichols that the techniques of SimPLE would result in the alleged advantages cited by the Office Action in the context of the engine management structure of Nichols.

-10-

Likewise, to conclude that, when confronted with the problem disclosed in the background portion of Applicant's disclosure, one might have turned to Nichols or Plaisant to address that problem, is a conclusion that can only be arrived at through improper application of hindsight reasoning based on the roadmap provided by Applicant's disclosure.

The Office Action, in paragraph 6, concedes that claim 6 is not rejected over the applied references. As such, Applicants understand claim 6 to recite allowable subject matter.

For at least the foregoing reasons, the applied references are not combinable in the manner suggested, and cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features recited in independent claims 1, 11, 12 and 13. Additionally, claims 2-8 and 10 are not taught, nor would they have been suggested, by the applied references for at least the respective dependence of these claims, directly or indirectly, on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-8 and 10-13 under 35 U.S.C. §103(a) as being anticipated by, or unpatentable over, the applied references are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-8 and 10-13 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Christopher J. Wheeler
Registration No. 60,738

JAO:CJW/clf

Attachment:
        Appendix

Date: October 19, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE
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